

UTAH SCENIC BYWAY AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Designation of State Highways Act by amending provisions relating to scenic byway designations.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires the legislative body of a county, city, or town or the Utah State Scenic Byway Committee to provide notice 30 calendar days before holding a public hearing to consider a segmentation request or an appeal of a segmentation request to certain persons or entities;
- ▶ requires the Legislature to approve the corridor management plan for a highway to be nominated for designation as a National Scenic Byway or All-American Road;
- ▶ requires the Utah State Scenic Byway Committee and the Local Scenic Byway Committee to provide notice of its intent to hold a public hearing and assist in the designation of a highway as a state scenic byway, National Scenic Byway, or All-American Road or in the preparation of or amendment to a corridor management plan that identifies a highway as a proposed National Scenic Byway or All-American Road to certain persons or entities 30 calendar days before the public hearing; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**AMENDS:**

72-4-301, as last amended by Laws of Utah 2009, Chapter 393

33 **72-4-301.5**, as enacted by Laws of Utah 2009, Chapter 393

34 **72-4-303**, as last amended by Laws of Utah 2009, Chapter 393

35 ENACTS:

36 **72-4-303.5**, Utah Code Annotated 1953

37

38 *Be it enacted by the Legislature of the state of Utah:*

39 Section 1. Section **72-4-301** is amended to read:

40 **72-4-301. Definitions.**

41 As used in this part:

42 (1) "Affected entity" means a county, municipality, local district, special service
43 district under Title 17D, Chapter 1, Special Service District Act, school district, interlocal
44 cooperation entity established under Title 11, Chapter 13, Interlocal Cooperation Act, specified
45 public utility, real property owner, real property owners association, personal property owner of
46 personal property that is subject to regulation under Title 72, Chapter 7, Part 5, Utah Outdoor
47 Advertising Act, or state, tribal, or federal government agency, if:

48 (a) the entity's services or facilities are likely to require expansion or significant
49 modification because of the proposed nomination of a highway as a scenic byway within a
50 corridor management plan; or

51 (b) the entity has filed with the committee a request for notice during the previous three
52 calendar years and before the committee provides notice to an affected entity in compliance
53 with a requirement imposed under this chapter.

54 ~~(1)~~ (2) "Committee" means the Utah State Scenic Byway Committee created in
55 Section 72-4-302.

56 (3) "Corridor management plan" means a written document:

57 (a) required to be submitted for a highway to be nominated as a National Scenic Byway
58 or All-American Road that specifies the actions, procedures, controls, operational practices,
59 and administrative strategies to maintain the scenic, historic, recreational, cultural,
60 archeological, and natural qualities of a scenic byway; and

61 (b) adopted by each municipality or county affected by the corridor management plan.

62 (4) "Local Scenic Byway Committee" means a committee or organization:

63 (a) created and recognized by the counties and municipalities for a specific state scenic

64 byway; and

65 (b) approved by the Utah State Scenic Byway Committee as the organization to
66 develop, enhance, plan, manage, interpret, promote, and market a specific state scenic byway.

67 ~~[(2)]~~ (5) "Non-scenic area" means:

68 (a) any property that is unzoned or zoned for commercial or industrial use adjoining a
69 highway that does not contain at least one of the intrinsic qualities described in Subsection
70 72-4-303(1)(b) immediately upon the property; or

71 (b) any property that is unzoned or zoned for commercial or industrial use that contains
72 an intrinsic quality described in Subsection 72-4-303(1)(b) immediately upon the property but
73 the intrinsic quality does not represent the primary use of the property.

74 ~~[(3)]~~ (6) "Segmentation" means:

75 (a) removing the scenic byway designation from a portion of an existing scenic byway
76 that adjoins a non-scenic area; or

77 (b) excluding a portion of a highway from a scenic byway designation where the
78 highway adjoins a non-scenic area.

79 Section 2. Section **72-4-301.5** is amended to read:

80 **72-4-301.5. Designation of highways as a National Scenic Byway or All-American**
81 **Road.**

82 Except as provided in Section 72-4-304, a highway or state scenic byway may not be
83 nominated for designation as a National Scenic Byway or All-American Road unless the
84 ~~[nomination]~~ corridor management plan prepared for the highway or state scenic byway to be
85 nominated for designation as a National Scenic Byway or All-American Road is approved by
86 the Legislature.

87 Section 3. Section **72-4-303** is amended to read:

88 **72-4-303. Powers and duties of the Utah State Scenic Byway Committee --**
89 **Requirements for designation -- Segmentation -- Rulemaking authority -- Designation on**
90 **state maps -- Outdoor advertising.**

91 (1) The committee shall have the responsibility to:

92 (a) administer a coordinated scenic byway program within the state that:

93 (i) preserves and protects the intrinsic qualities described in Subsection (1)(b) unique
94 to scenic byways;

(ii) enhances recreation; and

(iii) promotes economic development through tourism and education;

(b) ensure that a highway nominated for a scenic byway designation possesses at least one of the following six intrinsic qualities:

(i) scenic quality;

(ii) natural quality;

(iii) historic quality;

(iv) cultural quality;

(v) archaeological quality; or

(vi) recreational quality;

(c) designate highways as state scenic byways from nominated highways within the state if the committee determines that the highway possesses the criteria for a state scenic byway; and

(d) remove the designation of a highway as a scenic byway if the committee determines that the highway no longer meets the criteria under which it was designated.

(2) (a) A highway located within a county, city, or town within this state may not be included as part of a designation or nomination as a state scenic byway, National Scenic Byway, or All-American Road unless the nomination or designation is sanctioned in writing by an official action of the legislative body of each county, city, or town through which the proposed state scenic byway, National Scenic Byway, or All-American Road passes.

(b) If a county, city, or town does not give approval as required under Subsection (2)(a), then the portion of the highway located within the boundaries of the county, city, or town may not be included as part of any state scenic byway designation or nomination as a National Scenic Byway or All-American Road.

(3) (a) A state scenic byway, National Scenic Byway, or All-American Road may be segmented by the legislative body of the county, city, or town where the segmentation is to occur if:

(i) a person or another entity, with the consent of any landowners affected by the segmentation, has requested the segmentation of a portion of a road or highway; and

(ii) the legislative body of the county, city, or town reviews the segmentation proposed under Subsection (3)(a)(i).

126 (b) (i) The legislative body of a county, city, or town shall provide notice 30 calendar
127 days before holding a public hearing to consider a segmentation request.

128 (ii) The notice described in Subsection (3)(b)(i) shall:

129 (A) give notice of the date, time, and place of the public hearing;

130 (B) describe or provide a map of the scenic byway or All-American Road highway
131 corridor and the portion of the scenic byway or All-American Road highway corridor that is the
132 subject of the segmentation request; and

133 (C) be provided:

134 (I) to each affected entity;

135 (II) to the committee;

136 (III) to the local scenic byway committee, if a committee was established for:

137 (Aa) the highway to be designated as a scenic byway or All-American Road; or

138 (Bb) a corridor management plan to be prepared or modified for the scenic byway or
139 All-American Road; and

140 (IV) (Aa) on the Utah Public Notice Website created under Section 63F-1-701; or

141 (Bb) to the state planning coordinator under Section 63J-4-402, if the notice is not
142 provided on the Utah Public Notice Website under Subsection (3)(b)(ii)(C)(IV)(Aa);

143 (D) be sent by mail, e-mail, or other effective means; and

144 (E) include the address of an Internet website or the name and telephone number of a
145 person where more information can be obtained concerning the segmentation of a scenic byway
146 or All-American Road.

147 ~~[(b)]~~ (c) The legislative body of a county, city, or town shall render a decision on a
148 segmentation request under Subsection (3)(a) within 60 days and may grant segmentation to the
149 person or entity if the property is a non-scenic area.

150 ~~[(c)]~~ (d) (i) If the legislative body of a county, city, or town denies the request to
151 segment the state scenic byway, National Scenic Byway, or All-American Road under
152 Subsection (3)(a) upon the request of a person or another entity, with the consent of any
153 landowners affected by the segmentation, that person or entity may appeal the denial of the
154 request to the committee.

155 (ii) The committee shall hear and answer an appeal of the denial of a segmentation
156 request within 60 days of a request submitted in accordance with Subsection (3)~~[(c)]~~(d)(i).

(iii) If the committee does not render a decision on an appeal in accordance with Subsection (3)(~~c~~)(d)(ii), the segmentation request shall be granted if the property is a non-scenic area.

(e) (i) The committee shall provide notice 30 calendar days before holding a public hearing to consider an appeal of a segmentation request.

(ii) The notice described in Subsection (3)(b)(i) shall:

(A) give notice of the date, time, and place of the public hearing;

(B) describe or provide a map of the scenic byway highway corridor and the portion of the scenic byway highway corridor that is the subject of the segmentation request; and

(C) be provided:

(I) to each affected entity;

(II) to the local scenic byway committee, if a committee was established for:

(Aa) the highway to be designated as a scenic byway or All-American Road; or

(Bb) a corridor management plan to be prepared or modified for the scenic byway or All-American Road; and

(III) (Aa) on the Utah Public Notice Website created under Section 63F-1-701; or

(Bb) to the state planning coordinator under Section 63J-4-402, if the notice is not provided on the Utah Public Notice Website under Subsection (3)(e)(ii)(C)(III)(Aa);

(D) be sent by mail, e-mail, or other effective means; and

(E) include the address of an Internet website or the name and telephone number of a person where more information can be obtained concerning the segmentation of a scenic byway or All-American Road.

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules in consultation with the committee:

(a) for the administration of a scenic byway program;

(b) establishing the criteria that a highway shall possess to be designated as a scenic byway, including the criteria described in Subsection (1)(b);

(c) establishing the process for nominating a highway to be designated as a state scenic byway;

(d) specifying the process for hearings to be conducted in the area of proposed designation prior to the highway being designated as a scenic byway;

(e) identifying the highways within the state designated as scenic byways; and
(f) establishing the process and criteria for removing the designation of a highway as a scenic byway.

(5) The department shall designate scenic byway routes on future state highway maps.

(6) A highway within the state designated as a scenic byway is subject to federal outdoor advertising regulations in accordance with 23 U.S.C. Sec. 131.

Section 4. Section **72-4-303.5** is enacted to read:

72-4-303.5. Notice of intent to assist in designation or prepare a corridor management plan specifying a highway as a scenic byway.

(1) Before assisting in the designation of a highway as a state scenic byway, National Scenic Byway, or All-American Road or in the preparation of or amendment to a corridor management plan that identifies a highway as a proposed scenic byway, the committee shall provide notice of its intent to hold a public hearing and assist in the designation of a highway or preparation of or amendment to a corridor management plan at least 30 calendar days before the public hearing:

(a) to each affected entity;

(b) to the Automated Geographic Reference Center created in Section 63F-1-506;

(c) (i) on the Utah Public Notice Website created under Section 63F-1-701, if the committee:

(A) is required under Subsection 52-4-202(3) to use that website to provide public notice of a meeting; or

(B) voluntarily chooses to provide notice on that website despite not being required to do so under Subsection (1)(c)(i)(A); or

(ii) to the state planning coordinator appointed under Section 63J-4-202, if the committee does not provide notice on the Utah Public Notice Website under Subsection (1)(c)(i).

(2) Before assisting in the designation of a highway as a state scenic byway, National Scenic Byway, or All-American Road or in the preparation of or amendment to a corridor management plan that identifies a highway as a proposed scenic byway, the Local Scenic Byway Committee shall provide notice of its intent to hold a public hearing and assist in the designation of a highway or preparation of or amendment to a corridor management plan at

219 least 30 calendar days before the public hearing:
220 (a) to each affected entity;
221 (b) to the Automated Geographic Reference Center created in Section 63F-1-506;
222 (c) (i) on the Utah Public Notice Website created under Section 63F-1-701, if the Local
223 Scenic Byway Committee:
224 (A) is required under Subsection 52-4-202(3) to use that website to provide public
225 notice of a meeting; or
226 (B) voluntarily chooses to provide notice on that website despite not being required to
227 do so under Subsection (2)(c)(i)(A); or
228 (ii) to the state planning coordinator appointed under Section 63J-4-202, if the
229 committee does not provide notice on the Utah Public Notice Website under Subsection
230 (1)(c)(i).
231 (3) Each notice under Subsections (1) and (2) shall:
232 (a) give notice of the date, time, and place of the public hearing;
233 (b) indicate that the committee or the Local Scenic Byway Committee intends to assist
234 in the preparation of or amendment to a corridor management plan for a proposed National
235 Scenic Byway or All-American Road designation;
236 (c) describe or provide a map of the highway corridor that will be affected by the
237 corridor management plan;
238 (d) be sent by mail, e-mail, or other effective means;
239 (e) invite the affected entities to provide information for the committee to consider in
240 the process of preparing, adopting, and implementing the corridor management plan
241 concerning:
242 (i) impacts that the use of land and National Scenic Byway or All-American Road
243 designation proposed in the corridor management plan may have; and
244 (ii) uses of land within highway corridor that the affected entity is considering that may
245 conflict with the National Scenic Byway or All-American Road designation proposed in the
246 corridor management plan; and
247 (f) include the address of an Internet website or the name and telephone number of a
248 person where more information can be obtained concerning the National Scenic Byway or
249 All-American Road designation proposed in the corridor management plan.

